

including Figure 3 wherein the callout 40B has been added to designate the second or lower composite panel.

REMARKS

In the Office action mailed April 13, 1998, the Examiner objected to the disclosure and rejected all twenty-one pending claims under 35 U.S.C. §103(a) as being unpatentable over the Chilton, et al. and Stoyell, et al. references.

Turning first to the objection to the disclosure and specifically the drawings, applicants' attorney has submitted a new Figure 3 wherein in the lower composite layer 40B is labeled. It is submitted that this correction overcomes the objection entered by the Examiner and that this drawing correction should be approved.

Turning then to the art rejection, all twenty-one pending claims have been rejected for obviousness on a combination of U.S. Patent No. 5,716,522 to Chilton, et al. and U.S. Patent No. 5,543,047 to Stoyell, et al. The Chilton, et al. patent is commonly owned by the assignee of the applicants herein, Kuss Corporation of Findlay, Ohio. Moreover, it is not prior art under 35 U.S.C. 102(b). Accordingly, the undersigned has elected to proceed under 35 C.F.R. §1.130 to disqualify this

commonly owned patent as prior art. Specifically, a Terminal Disclaimer disclaiming a portion of the term of any patent to issue on this application subsequent to October 25, 2016, the expiration date of United States Patent No. 5,716,522 to Chilton, et al. has been submitted.

By virtue of such disclaimer and satisfaction of the requirements of terminal disclaimers under 37 C.F.R. 1.321, it is submitted that United States Patent No. 5,716,522 should be disqualified as prior art. Acceptance of the enclosed Terminal Disclaimer and disqualification of such patent is respectfully requested.

Turning then to the patent to Stoyell, et al., it discloses a relatively rigid body, cylindrical filter element having a pleated outer element with contacting pleat surfaces. An impervious cap closes off one end of the filter element. The invention of applicants, on the other hand, is a two panel filter having multiple layers of filtration material which exhibits improved scuff and abrasion resistance. Beyond comprising multiple filtration layers, the similarities with the Stoyell, et al. disclosure are not apparent. The independent claims require a body having first and second

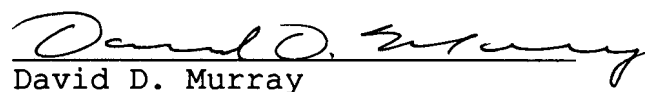
panels of filtration media which provide an interior space. This construction is not found in Stoyell, et al. Secondly, the claim requires that the panels include an outer layer of extruded mesh and layers of spun bonded and melt blown filtration media. These features are neither disclosed nor suggested in Stoyell, et al. Accordingly, it is strongly urged that Stoyell, et al. does not and cannot support an obviousness rejection under 35 U.S.C. 103 and that the presently pending Claims 1 through 21 should be allowed.

The other references which were cited but not applied by the Examiner have been reviewed and found to be less relevant than those references applied by the Examiner. Hence, further analysis and comment of such references will be deferred until such time as their increased relevance becomes apparent.

In summation, applicants have furthered the state of the multi-layer soft body in-tank filter art by providing a filter which provides exceptional small particulate filtration capability while at the same time providing good resistance to scuffing and abrasion. The claims fairly set forth the invention and clearly, patentably distinguish over the prior art of record.

Reconsideration of the patentability of Claims 1 through
21 and allowance thereof is earnestly sought.

Respectfully submitted,


David D. Murray
Registration No. 28,647

Brinks Hofer Gilson & Lione
1130 Edison Plaza
Toledo, Ohio 43604-1537
(419) 244-6578